

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

OSCAR MARQUEZ,)	
)	
Petitioner,)	
)	
vs.)	Case No. 23-cv-1975-SMY
)	
WARDEN,)	
)	
Respondent.)	

ORDER

YANDLE, District Judge:

Petitioner Oscar Marquez, currently incarcerated at the USP Marion, Illinois, filed the instant action pursuant to 28 U.S.C. § 2241 (Doc. 1). He raised several claims for relief related to his November 2020 conviction and sentence for cyberstalking and interstate violations of protection orders. *See U.S. v. Marquez*, No. 21-30134, 2022 WL 16849065 (9th Cir. Nov. 10, 2022). Specifically, Marquez asserted that the district court lacked jurisdiction over his criminal case and, therefore, his subsequent conviction and sentence must be vacated. This Court denied Marquez’s petition for habeas relief under § 2241, advised him that his claims must be raised in a § 2255 habeas petition, and dismissed the case with prejudice (Doc. 7). Marquez has appealed and moves for leave to appeal in forma pauperis (Doc. 20).

The Court may permit a party to proceed on appeal without full pre-payment of fees provided the party is indigent and the appeal is taken in good faith. 28 U.S.C. § 1915(a)(1) & (3); FED. R. APP. P. 24(a)(3)(A). An appeal is taken in “good faith” if it seeks review of any issue that is not clearly frivolous, meaning that a reasonable person could suppose it to have at least some legal merit. *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000).

Marquez's affidavit in support of his request to proceed IFP on appeal is incomplete as he failed to attach a certified statement showing all receipts, expenditures, and balances during the last six months for his institutional accounts. Additionally, the Court finds that his appeal is not taken in good faith as Marquez has not made a showing that legal merit exists for an appeal.

Accordingly, Marquez's Motion for Leave to Appeal *in Forma Pauperis* (Doc. 20) is **DENIED**. He is **ADVISED** that he has **30 days** from service of this Order to file a motion to proceed *in forma pauperis* on appeal in the Court of Appeals. FED. R. APP. P. 24(a)(5).

IT IS SO ORDERED.

DATED: February 21, 2024

The block contains a handwritten signature in black ink that reads "Staci M. Yandle". The signature is written over a circular official seal. The seal features an eagle with a shield, holding an olive branch and arrows, with a constellation of stars above its head. The text "UNITED STATES DISTRICT COURT" is arched across the top, and "SOUTHERN DISTRICT OF TEXAS" is arched across the bottom.

STACI M. YANDLE
United States District Judge